

(110)

2-20-03  
SC

2 to cr 4/0

THE UNITED STATES DISTRICT COURT  
Middle District of Pennsylvania  
Harrisburg, PA

Yan SHAO

Plaintiff,

v.

Edward Cuccia  
Charles Day  
John / Jane Doe  
Law Offices of Ferro & Cuccia

Defendants.

No. 1:00 CV 1901  
(JUDGE Rambo)

FILED  
HARRISBURG, PA

FEB 19 2003

TERENCE D'ANDREA, CL

CIVIL ACTION - LAW

MOTION THAT DEFENDANT SHALL BE DEEMED NOT TO OPPOSE THE  
PLAINTIFF'S MOTIONS SERVED UPON HIM ON JANUARY 28, 2003  
WITH BRIEF INCORPORATED

MAY IT PLEASE THE COURT, Local Rule 7.6 of this Court states in  
pertinent part that a respondent "shall" file a responsive brief within 15 days of  
service of a motion and that "any respondent who fails to comply shall be  
deemed not to oppose such motion."

STATEMENT OF MATERIAL FACTS

1. On January 28 2003, the plaintiff's counsel served upon the defendant  
Mr. Day three motions. These motions (1) move this court to stay any  
orders following the January 28 show cause hearing until the plaintiff's  
own motion for sanctions has been considered (2) move this court for

sanctions and (3) move this court to retain supervisory powers over the parties until the parties comply with all of the orders of this Court.

2. Mr. Day has not filed a timely answer to these motions.

#### STATEMENT OF QUESTIONS PRESENTED

Whether Mr. Day, by filing no timely response, shall be deemed not to oppose the plaintiff's January 28 2003 motions.

#### ARGUMENT


Based upon the above cited facts, Mr. Day is not in compliance with Local Rule 7.6.

WHEREFORE, the plaintiff respectfully moves this Court to RULE that Mr. Day is deemed not to oppose the plaintiff's January 28, 2003 motions.

Respectfully submitted,

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Craig T. Trebilcock  
Pa I.D. No. 48344  
Associate Counsel for the Plaintiff  
100 East Market  
PO Box 15012  
York, PA 17405-7012  
717 846-8888



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Richard B. Cook  
Louisiana #21248  
Counsel for the Plaintiff  
17 Jonathan's Court  
PO Box 411  
Hunt Valley, MD  
410 683 9469

CERTIFICATE OF SERVICE

Undersigned counsel certifies that on February 13, 2003, a copy of the appended motion, order, and certificate of non-concurrence have been served on the defendant by First Class Mail, postage pre-paid, to the following address, and separately upon Pamela Day, postage pre-paid, to the following address:

Charles Day, Esq.  
80-100 Tryon Place  
Jamaica, NY 11432

Pamela Day, Esq  
80-100 Tryon Place  
Jamaica, NY 11432

A handwritten signature in black ink, appearing to read 'R. B. Cook', is written over a horizontal line.

Richard B. Cook

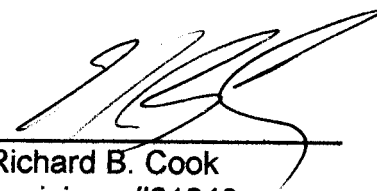
LR 7.1 CERTIFICATE OF NONCONCURRENCE

Undersigned counsel for the plaintiff certifies that the preceding motion has been served upon Charles Day but that no concurrence to its filing has been obtained. On February 11, 2003, the undersigned called Mr. Day at 212 274 8408 and confirmed that this was his answering service. The undersigned left his number but no return call has been received. The undersigned also called Mr. Day at a number believed to be his residence and left a message at that number as well. On February 12, 2003, the undersigned also called Harold Herman, Esq., who indicated he did not represent Mr. Day before this Court.

Respectfully submitted,

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Craig T. Trebilcock  
Pa I.D. No. 48344  
Associate Counsel for the Plaintiff  
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